



P O R T L A N D  
CITY AUDITOR

**Independent  
Police Review**

### Case Summary for Appeal Hearing

2019-C-0047/2019-X-0001

August 7, 2019

## **INVESTIGATION OVERVIEW**

### **Involved Persons**

Appellant  
Detective A

### **Witnesses**

Community Member  
Attorney

### **Allegations**

<b>No.</b>	<b>Allegation Summary</b>	<b>Category</b>	<b>Finding</b>
1	Detective A was unprofessional when he demonstrated favoritism during his investigation of Appellant. (CONDUCT) (Directives 315.30 – Satisfactory Performance 310.00 – Professional Conduct and Courtesy)	Conduct	Exonerated
2	Detective A inappropriately contacted Appellant after she instructed him to communicate through her attorney. (CONDUCT) (Directive 315.00 – Laws, Rules, and Orders)	Conduct	Exonerated
3	Detective A was discourteous to Appellant. (COURTESY) (Directive 310.00 – Professional Conduct and Courtesy)	Courtesy	Exonerated



## **Incident/Complaint Summary**

On 1/5/2019, Community Member alleges there was a car prowl and theft of two “Z Gallery” shopping bags, containing two ceramic pug statues, from his car, which was parked in a parking garage at his residence. Community Member reviewed surveillance footage and identified Appellant as the individual who took the statues. Community Member confronted Appellant, who denied she had taken the statues.

After discussing the matter with Appellant, Community Member then contacted Detective A. Community Member knew Detective A from work on a previous theft four to five years prior. On 1/23/19, Community Member emailed Detective A and identifies the suspect as Appellant. The email also includes information on building security, witnesses to the car prowl, a description of the stolen property, suspect descriptions, an incident timeline, and surveillance footage.

Detective A contacted Appellant by phone and told her to turn herself in for arrest as there was video evidence she had stolen the statues from the parking garage. Appellant said the detective was aggressive towards her during the call when she stated her attorney would be speaking with him from that point on.

Detective A contacted Appellant several more times, leaving voicemails for her to contact him.

The issue regarding the theft of the statues was ultimately resolved via civil compromise. Appellant contacted Independent Police Review by submitting an online complaint on 2/14/19.

### **Appellant**

The Independent Police Review interviewed Appellant in March of 2019. Appellant and Attorney were both present for that interview. Appellant said she had received multiple phone calls from Detective A, and in the first contact he was “very aggressive” and said

That there was overwhelming evidence that I was guilty of theft and breaking into the neighbor’s car and that he had video evidence of – then that I needed to come down immediately. Immediately and turn myself in and get photographed and finger printed because he was going – or – or he was going to send police officers to the Portland Plaza to embarrass me and arrest me in front of all my neighbors (App. Transcript Lines 50-53).

Appellant confirmed that Detective A did not use inappropriate or non-professional language with her, but said that his tone was very aggressive.

Appellant said she asked where Detective A was and he responded that he was in southeast and “got really nasty” with her. Appellant wondered why someone from southeast was calling her. Appellant told Detective A she was going to hire an attorney and hung up.

After determining she and Community Member were not going to reach a civil compromise, Appellant told Attorney to “break off communications” with Community Member because “they’re nuts.”

Appellant said she then received multiple voicemails from Detective A, with one telling her again to turn herself in. Appellant said Detective A did not say if he tried to reach out to Attorney nor did he mention a warrant. Appellant said Detective A had “toned-down” in these voicemails, but that she did not want to speak to him.

Appellant also said Community Member knew Detective A from a prior incident. Appellant said she learned from Community Member that he “found a videotape of me with the stuff in my hands and they put it together in a nice little package for Detective A and says, here’s the proof. Somebody broke into my car and took the stuff and we have video of [Appellant] with the stuff in her hands. She’s the one.” (App. Transcript Lines 237-240.)

Appellant said of Detective A:

Yeah, I would like to have [Detective A’s] personal information so the next time I have a problem with one of my neighbors, you know, in a private community or it’s – where it’s a misunderstanding, I can get him to whip everybody all up like that. so, I have to hire an attorney and pay thousand of dollars so I can eventually settle with my neighbor in a civil fashion. Because I have filed police reports through proper channels with the Portland Police, one involving my car. I loaned my car to a friend of a friend, they wouldn’t give it back. Walked down to the precinct, know what they told me? We won’t help you. You have to send them a certified letter. You have to talk to them first. We’re talking about a forty-five thousand dollar car. But, [Community Member] for a hundred dollars worth of slopped next to the garbage, gets a detective (App. Transcript Lines 293-304).

#### Attorney

Independent Police Review interviewed Attorney in March of 2019. Attorney confirmed that Appellant contacted him after a conversation with Detective A regarding a criminal complaint filed against her for theft. Attorney said he spoke with Detective A, who told him the complaint was made by Community Member. Attorney said Detective A told him Appellant should go to the jail and turn herself in. Attorney found this odd because “if [Detective A] wrote a report it would have to be passed on by the deputy District Attorney and a charge would have to be filed, but if she walked down to the jail to turn herself in, they wouldn’t know why she was there” (Atty. Transcript Lines 48-50).

Attorney said he had a second conversation with Detective A in which the detective was “much less aggressive.” Attorney said the detective said maybe the situation could be worked out by Appellant making a charitable contribution. Attorney said Detective A was now “acting as a mediator,” which Attorney found odd.

Attorney said Community Member wanted Appellant to make a charitable contribution of three-thousand dollars, even though the value of the statues was less than one-hundred dollars. Attorney said Appellant then told him to “cut it off,” which he relayed to Detective A during another phone conversation. Attorney said he told Detective A:

if this goes somewhere I’ll be representing [Appellant] again, but I’m – I’m not going to be involved now because [Appellant] asked me to cut it off. So, he may have gotten the impression that I wasn’t – when he called [Appellant] again maybe he got the impression that I wasn’t representing her (Atty. Transcript Lines 107-110).

Attorney said that in his last conversation with Detective A, he was “suspicious about what’s going on here... Because it seems odd to me that a detective from East Precinct would be handling a petty theft case” (Atty. Transcript Lines 123-126). Attorney said he asked Detective A if there was any prior

relationship with Community Member. Detective A told Attorney that he did know Community Member through a prior incident. Attorney told Detective A he thought that the detective getting involved because the Community Member called him directly was improper and the Community Member should not “get to have his own private cop.” Attorney suggested the matter should be investigated and “[Detective A] was upset. He said well, I, you know, you throw around the word improper and Internal Affairs gets involved and I said, well I’m sorry that’s just the way I feel” (Atty. Transcript Lines 134-135).

Attorney said he did not have any issues with how Detective A spoke to him. Attorney said his three problems with Detective A were that he had a personal relationship with Community Member, that he was acting as a mediator, and that he told Appellant she should turn herself into jail. Otherwise, Attorney described his interaction with Detective A as “run of the mill.”

#### Detective A

Internal Affairs interviewed Detective A in April of 2019. He described how he became involved in the case:

I got a call from [Community Member] and he said that he was the victim of a theft and it was a situation that he was a little iffy about that happened in his building, you know, he didn’t really want to involve the police, but that the subject of [Appellant], the suspect in this case, had twice not taken responsibility for her actions and in texts that he had recorded, a friend of his had recorded, and an audio recording that he had made and that he had overwhelming evidence that she had, in fact, committed this crime, and that he would appreciate me looking at it (Det. Transcript Lines 43-48).

When asked how he knew Community Member, Detective A stated that he had worked on a case in Community Member’s building four or five years prior. Detective A said he recognized Community Member’s name, but did not know how he knew him. Detective A said Community Member explained the prior case.

Detective A denied having any other personal relationship with Community Member. Detective A was unable to recall if he had ever met Community Member in person but said “I would not know him if he was sitting in this room unless somebody introduced him as [Community Member].”

Detective A said it was not usual for him to receive contact from someone with whom he’d worked on a prior case. Detective A said, “We give our cell phone numbers all the time because we’re always on the move.” When asked whether there was any problem with Detective A taking the case, despite it occurring in Central Precinct and his being assigned to East, Detective A said no.

And in fact, if I had, with, he provided me overwhelming evidence against [Appellant] and in such a convenient way as I have forwarded the information to you, it would have been unprofessional and I, I think, and almost a blow off to pass him off to a patrol officer and try and get somebody else to start over and pick up that information and hand him off. I think that would not have been a good customer service move (Det. Transcript Lines 111-115).

Detective A also said that Community Member had provided him with extensive information about the case, so there was not much investigative work for him to do. “This, this investigation was left to an interview only. The DA’s office would have wanted me to attempt to interview her and as I did, but then

she, she said she wanted an attorney and made no statements, and then so we took it from there, but it was her actions that dictated how this case got handled” (Det. Transcript Lines 137-140).

When asked how his interactions with Appellant went, Detective A stated that he was “willing to listen to her side of the story,” but that she did not provide information and just stated she wanted an attorney. Detective A said he was “absolutely not” rude or threatening to Appellant.

Detective A confirmed that he had one conversation with Appellant and all other contacts were via voicemail. Detective A said he did not think Appellant told him not to contact her again, but she did state that she was getting an attorney. Detective A confirmed he did attempt to contact Appellant after she retained an attorney, but only after speaking to Attorney, who told Detective A that he no longer represented Appellant.

Detective A said he had two to three conversations with Attorney. During the first conversation, Attorney attempted to persuade Detective A to issue Appellant a citation and “not requir[e] her to get a mug and print.” Detective A said it was standard procedure to “mug and print” if someone is arrested.

#### Community Member

Internal Affairs interviewed Community Member on April 5, 2019. Community Member explained that his building has 24-hour security and surveillance and when he saw the surveillance footage of the theft, he recognized Appellant. Community Member stated:

Well I, I obviously recognized her, we’ve been neighbors for about a decade, and I was, I guess shocked, to see her walking away from my vehicle with two large, you know, what are clearly, you know, like almost shopping gift bags, and her putting them, presumably, into her vehicle when she walked out of the camera’s view, so I, my wife and I were pretty shocked. I think anyone, and any other neighbor in that situation would have alerted security that there’s some items that, you know, if it was indeed what she said, the case where they were left outside the vehicle, then any normal person would have reported that to find out whose items they were. She indicated they were abandoned, but I don’t know how anyone else could, you know, take that away from that situation (Comm. Mem. Transcript Lines 90-97).

Community Member noted that the value of the items stolen was low, but that he wanted to pursue it with Detective A because Appellant had lied to a neighbor about where she had received the ceramic pug statues. Community Member said that he contacted Appellant prior to contacting Detective A. Community Member said he told Appellant “that my neighbor indicated that she had these items and she had told him that she got them at an estate sale and I basically said look, I’m missing items similar to this, do you know anything about that?” (Comm. Mem. Transcript Lines 116-118.) Community Member said Appellant stated she got the items from Goodwill and that “was again, just shocked that like here I am, obviously there’s not a lot of chrome pug statues floating around in our, in our community, and that you know, it was already clear that she, she was lying about them and I, you know, I had watched the video of her doing it and that she wouldn’t admit it, you know, in that moment, was just kind of shocking” (Comm. Mem. Transcript Lines 119-123).

Community Member explained how he knew Detective A, stating “I want to say maybe 5 years ago, he was assigned to me with a case that involved a manager in my condo tower entering people’s units to take medications, so I worked with him on that case at that time and I think that resulted in a felony conviction.”

When asked whether he had a personal relationship with Detective A, Community Member said “No, I hadn’t talked to him since that case.” Community Member stated he contacted Detective A because “I had his number still in my phone and I knew he was a property crimes detective and so I just assumed that I could just call him and give him the evidence.” (Comm. Mem. Transcript Lines 50-60).

When asked how he felt about the service he received from Detective A, Community Member said, “I felt he was very fair and I mean it was very efficient, just simple, and I think it’s really unfortunate that, that this woman would suggest that he did anything untoward” (Comm. Mem. Transcript Lines 153-154).

Internal Affairs interviewed Community Member again on April 11, 2019. Community Member confirmed that the video surveillance shows the Appellant walking in the direction of Community Member’s car, but not whether she took the bags from inside the car or next to the car. Community Member confirmed that there is a garbage can near where Community Member’s car is parked, as Appellant claimed she found the bags sitting by the garbage cans. Community Member also confirmed he had spoken to Appellant about the complaint filed with IPR and asked her not to pursue it, to apologize for the theft, and to pay the cost to cover the stolen items. The Investigator recommended Community Member cease contact with Appellant.

### **Summary of Appellant and Officer Interviews**

Complaint Received:	2/14/2019
Investigation Completed:	5/1/2019
Findings Completed:	5/20/19
Appeal Received:	6/19/2019

## **Findings and Definition of Findings**

**Finding:** A determination of whether an allegation against a member is unfounded, exonerated, not sustained or sustained. These findings have the following meanings:

**Unfounded:** The allegation was false or devoid of fact or there was not a credible basis for a possible violation of policy or procedure.

**Exonerated:** The act occurred but was lawful and within policy.

**Not Sustained:** The evidence was insufficient to prove a violation of policy or procedure.

**Sustained:** The evidence was sufficient to prove a violation of policy or procedure.

Any of these findings could be accompanied by a debriefing, which would involve the superiors of an involved officer talking about the incident and providing instruction as to how the situation might have been handled better.

## **Options Available to the CRC**

At the appeal, the CRC has the following options available to it:

1. The CRC can affirm the finding, meaning that it believes that a reasonable person can make the same decision based on the available information, whether or not the committee agrees with the decision; or
2. It can challenge the finding; meaning that the committee believes a reasonable person would have reached a different finding based on the available information. The CRC can recommend a debriefing as part of any challenged finding; or
3. It can refer the case to the Independent Police Review or Internal Affairs for further investigation.